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Linda Fuchs, Tracy Fernandez, Bruce Jackson,
Richard E. Winnie (now deceased and in his former
official capacity as County Counsel only)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BELINDA K., individually and as next friend
for J.H., a minor,

Plaintiffs,

Vs.

COUNTY OF ALAMEDA, et al.

Defendants.

Case No.: C10-05797-LHK

**DEFENDANTS' ALAMEDA
COUNTY, ETC. OPPOSITION
STATEMENT TO PLAINTIFF'S
MOTION TO REMOVE GUARDIAN
AD LITEM**

Hearing Date: Not Scheduled
Hearing Time: Not Scheduled
Department: Ctrm 4, 5th Flr
Location: 280 South 1st Street
San Jose, CA

The Defendants County of Alameda Mary Chew, Linda Fuchs, Tracy Fernandez,
Bruce Jackson, and Richard E. Winnie (now deceased and in his former official capacity
as County Counsel only) submit the following Opposition Statement to the Motion to
Remove Minor's Guardian ad litem filed by Plaintiff Belinda K. (Docket # 213.)

In her Motion, Plaintiff Belinda K. claims that it is her "understanding" that this
Court appointed a Guardian ad litem for her minor son ("JH") in this civil rights action.
(Motion at page 4, lines 14-16.)

1 Plaintiff fails to cite any basis for this "understanding." Plaintiff only references a
 2 Statement dated October 20, 2011 filed by the Guardian ad litem for JH filed in the
 3 related Indian Child Welfare Act ("ICWA") action also pending before this Court (#10-
 4 CV-02507).

5 Contrary to Plaintiff's "understanding," this Court has previously dismissed all of
 6 the Counts which Plaintiff had earlier attempted to pursue on behalf of her JH in this
 7 action. (See Court Order dated July 8, 2011; Docket #153 at pages 8-9, 36.)

8 This Court concluded that Plaintiff Belinda K. could not act as JH's legal
 9 representative or "next friend" in this action "in light of the conflict of interest between
 10 them." Docket #153 at page 8.

11 The Court further determined that, while it had appointed a Guardian ad litem
 12 and counsel for JH in the related ICWA case (Action #10-CV-02507), the Court would
 13 not and did not appoint a Guardian ad litem or counsel for JH in this action. Docket
 14 #153 at page 8, footnote 7 ("because the Court finds that Plaintiff cannot serve as next
 15 friend you JH, it will not recommend representation of J.H. for pro bono assistance in
 16 this case.")

17 Therefore, these Defendants respectfully request the Court to deny Plaintiff's
 18 Motion as moot because JH is no longer a party to this action and no Guardian ad litem
 19 has been or was appointed for JH in this action.

20 DATED: November 14, 2011

Office of the County Counsel in and for
 the County of Alameda, State of
 California

21
 22 By Raymond L. MacKay
 23 RAYMOND L. MACKAY
 Senior Deputy County Counsel

24 Attorneys for Defendants County of
 25 Alameda, Mary Chew, Linda Fuchs,
 26 Tracy Fernandez, Bruce Jackson, and
 27 Richard E. Winnie (now deceased and
 in his former official capacity as County
 Counsel only)

RE: BELINDA K., ET AL. V. COUNTY OF ALAMEDA, ET AL.
 United States District Court – Northern District of California
 Case No. C 10-05797-LHK

PROOF OF SERVICE

I am a citizen of the United States, over the age of 18 years and not a party to the within entitled action. I am employed at the Office of the County Counsel, County of Alameda, 1221 Oak Street, Suite 450, Oakland, California 94612-4296.

On the below date, I served the attached:

DEFENDANTS' ALAMEDA COUNTY, ETC. OPPOSITION STATEMENT TO PLAINTIFF'S MOTION TO REMOVE GUARDIAN AD LITEM

in the above-mentioned matter on the parties to this action by placing a true copy thereof in a sealed envelope, addressed as follows:

Belinda Kirk 1986 Washington Avenue, #A San Leandro, CA 94577 Telephone: (510) 352-1449	<i>Plaintiff</i>
Aaron Cohn Matthew Vafidis Shannon K. Little HOLLAND & KNIGHT 50 California Street Suite 2800 San Francisco, CA 94111 Tel: 415-743-6900 Fax: 415-743-6910	<i>Courtesy Copy</i>

☒ BY MAIL: I am readily familiar with the Office of the County Counsel, Alameda County's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in the City of Oakland, California, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Oakland, California on November 14, 2011.

/s/ Lydia Smith
 Lydia Smith